

MESSAGES FROM THE GOVERNOR.

Mr. J. T. Bowman, Private Secretary to the Governor, appeared at the bar of the House, and, being duly announced, presented the following messages from the Governor, which were read as follows:

Governor's Office,
Austin, Texas, March 31, 1913.
To the House of Representatives:

I am returning herewith to the House of Representatives House bill No. 805 without approval.

This bill seeks to provide compensation for the county commissioners and county judge of Galveston county, and provides for the payment thereof in a manner different from that prescribed by general statute affecting the compensation of members of commissioners courts of other counties in the State. It, therefore, partakes of the nature of a local bill, and there is no evidence attached to said bill showing that the constitutional requirement for thirty days' notice for advertising for the application of a special bill has been made.

In my judgment, it is in violation of the Constitution. Besides, it is contrary to good public policy to make separate provision for the compensation of members of the commissioners court of individual counties. In the opinion that the bill is unconstitutional, I am supported by the views of the Attorney General, whose opinion on this question I attach hereto and make a part of this message.

For the reasons I have stated and those given in the opinion of the Attorney General, the bill is disapproved.

Respectfully submitted,

O. B. COLQUITT,
Governor of Texas.

Opinion of Attorney General.

Austin, Texas, March 29, 1913.
Hon. O. B. Colquitt, Governor, Capitol.

Dear Sir: Under date of the 29th inst., you transmit to this Department House bill No. 805, recently passed by the Legislature, and ask for an opinion as to the constitutionality of the measure.

The full purpose and intent of this act is set forth in Section 1 thereof, which is as follows:

"Section 1. Each county commissioner and the county judge of Galves-

ton county shall receive from the county treasury, to be paid on the order of the commissioners court, the sum of \$100.00 per month, which shall be full compensation to said commissioners of Galveston county, including the county judge, for performing all their duties as members of the commissioners court of said county, as required by law."

Section 2 of this act is as follows:

"Sec. 2. All laws in conflict herewith are hereby expressly repealed."

It will be seen that this is a special law applicable alone to Galveston county, and prescribes a definite compensation in the way of a salary for the members of the commissioners court different from the law as applicable to every other county in the State.

The general laws controlling other counties on this subject are as follows: Article 3852, Revised Statutes, 1911, reads:

"For presiding over the commissioners court, ordering election, and making returns thereof, hearing and determining civil cases and transacting all other official business, not otherwise provided for, the county judge shall receive such salary from the county treasury as may be allowed him by order of the commissioners court."

Article 3870 reads:

"Each county commissioner and the county judge, when acting as such, shall receive from the county treasury to be paid on the order of the commissioners court the sum of \$3.00 for each day he is engaged in holding a term of the commissioners court, but such commissioners shall receive no pay for holding more than one special term of their court per month."

It is the opinion of this Department that this act is void and in direct conflict with Section 56, Article 3, of the Constitution, which provides:

"The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law authorizing. * * * Regulating the affairs of counties," etc.

There can be no material distinction between the question now under consideration and the question of construction involved in the case, recently decided by the Supreme Court, from Bell county, its style being Bell County, Plaintiff in Error, vs. W. E. Hall, Defendant in Error.

Bell county was among the list of counties coming under the operation of the auditor's law that was first enacted

by the Twenty-ninth Legislature and afterwards amended by the Thirtieth Legislature. The Thirty-first Legislature passed an act exempting Bell county from the provisions of the auditor's law. In the case above mentioned the only question involved was as to the constitutionality of the act of the Thirty-first Legislature exempting Bell county from the operation of the law. Without prolonging this communication, we will make the following quotation from the opinion of Associate Justice Phillips in disposing of the case for the Supreme Court:

Judge Phillips says:

"The Honorable Court of Civil Appeals for the Third District held on this appeal that the act was within the constitutional prohibition. 138 S. W., 178. Upon a careful consideration of the question, we concur in this conclusion, and do not regard it necessary to supplement the able opinion written in the case by Chief Justice Key. In relieving Bell county from the operation of the general law, this act in effect changed the administration of its affairs in every particular provided by the general law and thus by indirection regulated its affairs as effectually as though it had directly and affirmatively prescribed a different method for their management. The judgment of the Court of Civil Appeals reversing the judgment of the district court and remanding the same is affirmed."

The Bell county case, above, is directly in point, and hence there is no escape from the conclusion that this act in question is a special or local act applicable to Galveston county only; and changes the general law providing a method of compensation different from that prescribed for the same officers in all the other counties of the State.

Yours truly,

B. F. LOONEY,
Attorney General.

This opinion has been examined, passed upon by the Department in executive session, and is now ordered recorded.

B. F. LOONEY,
Attorney General.